EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

ORIGINAL 90-6051

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL SINDRAM

Petitioner,

v.

STATE OF MARYLAND, et al.

Respondents.

RECEIVED
HAND DELIVERED
OCT 24 1990
OFFICE OF THE CLERK
SUPREME COURT, U.S.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Petitioner, Michael Sindram, pro-se, asks leave to file the attached Petition for a Writ of Mandamus without prepayment of costs and to proceed in forma pauperis. Petitioner has previously been granted leave to so proceed in both the Circuit Court for Dorchester County,Maryalnd and the Court of Special Appeals of Maryland. Petitioner's Affidavit in Support of this Motion is attached hereto.

/s/ Michael Sindram
Michael Sindram

Michael Sindram v State of Maryland, et al.

90-605
90-6051

AFFIDAVIT IN SUPPORT OF A MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, Michael Sindram being first duly sworn, depose and say that I am the petitioner in the above-entitled case, that in support of my Motion for Leave to Proceed In Forma Pauperis, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and that I believe I am entitled to redress.

RECEIVED
HAND DELIVERED
OCT 24 1990
OFFICE OF THE CLERK
SUPREME COURT, U.S.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of proceeding in this Court are true.

1. Are you presently employed? Yes___ No ✓
   a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

   b. If the answer is no, state the date of your last employment and amount of the salary or wages per month which you received.
   Defense investigator of D.C. court system, terminated by the court the rate of $16/hr. Appx $2,560 earned within the past 12 months with no point made

2. Have you received within the past twelve months any income from a business, profession, or other form of self-employment, or in the form of rent payments, interest, dividends or other sources?
   Yes ✓ No___
   a. If the answer is yes, describe each source of income and state the amount received from each during the past twelve months.
   Defense investigator of D.C. court system, terminated by the court the rate of $16/hr. Appx $2,560 earned within the past 12 months with no point made

3. Do you own any cash or checking or savings account? Yes___ No ✓
   a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes___ No ✓
   a. If the answer is yes, describe the property and state its approximate value.
   N/A Value (responsible): Value - Zero. I have no money and unable to work because I have been recently unconstitutionally injured for an extended period of time.

5. List the persons who are dependent upon you for support and state your relationship to those persons.
   Self

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.

Subscribed and sworn to before me this 22 day of October, 1990

/s/ Michael Sindram

Minnie K. Degroe
Notary

My commission expires:

My Commission Expires October 31, 1992

IN THE SUPREME COURT OF THE UNITED STATES

Petition No.

September Term, 1990

* * * * * * * * * * * *

MICHAEL SINDRAM

Petitioner

RECEIVED
HAND DELIVERED
OCT 24 1990
OFFICE OF THE CLERK
SUPREME COURT, U.S.

v.

STATE OF MARYLAND, et al.

Respondents.

* * * * * * * * * * * *

PETITION FOR A WRIT OF MANDAMUS TO

THE MARYLAND COURT OF APPEALS AND

MOTOR VEHICLE ADMINISTRATION

* * * * * * * * * * * *

Michael Sindram
Petitioner, Pro-Se
13217 New Hampshire Ave.
No.4485
Silver Spring, Md 20914
(202)939-8471

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Maryland Court of Special Appeals, in its order of July 27,1990, acted "in the 'clear absence of jurisdiction' "?

2. Whether the Court of Appeals of Maryland should be compelled by this Court to act upon its Petition Docket No.334, Sept. Term,1990?

3. Whether the Maryland Motor Vehicle Administration should be compelled to expunge Petitioner's driving record?

4. Whether the Circuit Court for Dorchester County,Maryland erred in its order of March 27,1990?

5. Whether Petitioner is entitled to the immediate discharge from restraints on his liberty and the supervisory control of the lower court(s); in view that he has made allegations that amount to a proper collateral attack: a challenge is made to the jurisdiction of the trial court, the voluntariness of a confession, alleged constitutional violations which would render the trial a nullity, questions of illegality of arrest, issues of illegal search and seizure, insufficiency of evidence, double jeopardy, and denial of speedy trial?

OPINION BELOW

Petitioner was issued a speeding ticket on May 17,1987. He was found guilty in the District Court of Maryland for Dorchester County and immediately appealed his conviction on August 25,1987 (date of "trial"). Thereafter Petitioner contacted the Dorchester County Circuit Court and was informed that the case had been dismissed.

On March 27,1990, the Dorchester County Circuit Court entered its ruling, annexed hereto as Appendix 1. Shortly thereafter, April 6,1990, Petitioner was unconstitutionally imprisoned, as evidenced by Appendix 2 annexed hereto.

Petitioner appealed the matter to the Court of Special Appeals of Maryland, as evidenced by Appendix 3 annexed hereto. Petitioner timely filed his Brief and Record Extract with the Court of Special Appeals, as

evidenced by Appendix 4 annexed hereto. On July 27,1990, the Court of Special Appeals sua sponte removed the appeal to the Court of Appeals, evidenced by Appendix 5 annexed hereto.

The Court of Appeals docketed said appeal as no.334; Sept. Term, 1990, Appendix 6 annexed hereto. On August 3,1990, the Court of Appeals Clerk writes its "order", as evidenced by Appendix 7 annexed hereto. On August 21,1990, the Court of Appeals Clerk again writes its "order", as evidenced by Appendix 8 annexed hereto. Petitioner's response is filed on September 7,1990, as evidenced by Appendix 9 annexed hereto.

The Motor Vehicle Administration makes its determination as outlined in its letter of October 10,1990, Appendix 10 annexed hereto.

Petitioner's appeal in the lower court remains pending and unacted upon. As a direct and proximate cause of this dilatory action, Petitioner is unable to have his driving record expunged.

JURISDICTION

Jurisdiction of this Court is invoked under Title 28 U.S.C. §1651(a) and Rule 20.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment V:

> Nor shall any person...be deprived of life, liberty, or property, without due process of law...

United States Constitution, Amendment VI - Right to a Speedy Trial.

United States Constitution, Amendment XIV - Right to Due Process, Equal Protection of Law, and Fundamental Fairness.

STATEMENT OF THE CASE

Petitioner's appeal from a charge of May 17,1987, remains pending in the lower court and is unacted upon. As a direct and proximate cause of this dilatory action, Petitioner is unable to have his driving record expunged.

REASON FOR GRANTING THE WRIT

The lower court(s) acted "in the 'clear absence of jurisdiction' ". William v. Rappeport, 699 F.Supp. 501, 506 (D.Md. 1988), quoting from Stump v. Sparkman, 435 U.S. 349, 356-57, 98 S. Ct. 1099, 1105, 55 L.Ed. 2d 331 (1978). The Supreme Court noted in Dennis v. Sparks, 449 U.S. 24 (1980), that "...judicial immunity was not designed to insulate the judiciary from all aspects of public accountability." 449 U.S. at 31.

Speaking for the majority in Boyd v. U.S., 116 U.S. 616 at 635 (1886), Chief Justice Bradley stated:

> It is the duty of (the) courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachment thereon.

In this case where Petitioner is proceeding as an indigent pro-se, there is even more reason for implying the existence of a claim that the actions complainrd of were carried out by the lower court(s). See Neitzke v Williams, 490 U.S._____(1989); Hughes v. Rowe, 449 U.S. 5 (1980)(per curiam Accord Estelle v. Gamble, 429 U.S. 97 (1976); Haines v. Kerner, 404 U.S. 519 (1972); Conley v. Gibson, 355 U.S. 41 (1957).

Moreover, for the lower court(s) to permit claims to be waived that are critical to Petitioner's case is not in keeping with the well established judicial bias in favor of protecting the rights of pro-se parties. Indeed, the entire conduct of this case has violated the spirit of this well established judicial principle.

CONCLUSION

That this Writ of Mandamus be issued to command the performance to have the lower court act upon Petitioner's appeal, and for action as to expungement of his driving record. This mandamus is a remedy that is based upon reasons of justice and public policy to preserve peace, order and good government. That mandamus is appropriate in this case since law has established no specific remedy, and where in justice there ought to be one.

Michael Sindram	*	**In the**
Appellant	*	**Court of Spacial Appeals**
v.	*	**No. 825**
State of Maryland	*	**September Term, 1990**
Appellee	*	

Order

It appearing from the record that the captioned appeal was noted to this Court improperly from a judgment of the Circuit Court for Dorchester County made in the exercise of appellate jurisdiction in reviewing the decision of the District Court,

It is, therefore, this 27th day of July, 1990, by the Court of Special Appeals, on its own motion,

ORDERED that the captioned appeal be, and it is hereby, transferred to the Court of Appeals. Courts Article, Section 12-302 (a), Maryland Rule 8-132.

Alan M. Wilner
Judge

Court of Appeals of Maryland

PETITION DOCKET

No. 334 September Term, 19 90

MICHAEL SINDRAM

v.

STATE OF MARYLAND

Michael Sindram — Attorney for petitioner

J. Joseph Curran, Jr., Esq. — Attorney for respondent

Date: July 30, 1990

STATE OF MARYLAND, SS:

Receipt is hereby acknowledged of a petition for writ of certiorari filed in the above entitled case.

Clerk
Court of Appeals of Maryland

CSA/PHC Form No. 2 — Mailed: May 25, 1990

IN THE COURT OF SPECIAL APPEALS

MICHAEL SINDRAM

vs.

STATE OF MARYLAND

PHC No. 293

September Term, 1990

O R D E R

The Court of Special Appeals, pursuant to Maryland Rule 8-206(a)(1), orders and directs that the above captioned appeal proceed without a Prehearing Conference.

BY THE COURT

JUDGE

Date: May 25, 1990

cc: *Philip L. Cannon, Clerk
Circuit Court for Dorcester County
Michael Sindram
Hugh Carter Vinson, Esq.

*Mr./Ms. Clerk: Will you kindly place this Order with the record in this cause (Your 5468). The date of this Order establishes commencement of the 10 day period under Md. Rule 8-411(b) and the 60 day period for transmittal of the record under Md. Rule 8-412(a).

Leslie D. Gradet, Clerk

Court of Special Appeals

Courts of Appeal Building
Annapolis, Md. 21401-1699
(301) 974-3646
WASHINGTON AREA (301) 261-2920

LESLIE D. GRADET
CLERK

SUSAN L. ROSENBLUM
[redacted]
CHIEF DEPUTY

No. 825, September Term, 1990

Michael Sindram
v.
State of Maryland

- IMPORTANT - This is how the case must be titled on all briefs.

Attorneys for Appellant: SINDRAM, MICHAEL

Attorneys for Appellee : CURRAN JR. ESQUIRE, J. JOSEPH
VINSON ESQUIRE, HUGH CARTER

The Record in the captioned appeal was received & docketed on 7/25/90.

The brief of the APPELLANT is to be filed with the office of the Clerk on or before 9/03/90. (Rule 8-502 (a)(1)).

The brief of the APPELLEE is to be filed with the office of the Clerk on or before 30 days after filing of appellant brief (Rule 8-502(a)(2)).

This appeal has been set for argument before this Court during the week of February 4, 5, 6, 7, 8, 11, 12, 13 and 14, 1991.

Stipulations for extensions of time within which to file briefs will not be granted where the request will delay argument (Rule 8-502(b)).

Counsel is likewise notified to advise the office of the Clerk (Pursuant to Rule 8-523) of intent to submit on brief at the time of filing his brief. No submission on brief will be accepted within ten (10) days prior to the date of argument without specially obtained permission of the Court.

Leslie D. Gradet

LESLIE D. GRADET

CLERK OF THE COURT
OF SPECIAL APPEALS

TTY FOR DEAF:
BALTO.-ANNAPOLIS AREA (301) 974-3646
WASHINGTON AREA (301) 565-0450

Michael Sindram	*	In the
Appellant	*	COURT OF SPECIAL APPEALS
vs.	*	Criminal No. 5468, in
State of Maryland	*	the Circuit Court for Dorchester County
Appellee	*	

ORDER

Upon consideration of the aforegoing request to waive filing fees, it is this 22d day of May, 1990, by the Court of Special Appeals,

ORDERED, that the prescribed fee of this Court for filing of the record and the fee payable to the Clerk of the Circuit Court for Dorchester County for preparation of the record on appeal be, and they are hereby, waived. Maryland Rule 1-325.

Paul E. Gilbert
CHIEF JUDGE

CIRCUIT COURT FOR DORCHESTER CO[illegible]Y
Philip L. Cannon, Clerk
P. O. Box 150, Cambridge, Maryland 2[illegible]13

ENCH
ARRANT

CASE NUMBER: 5468 CRIMINAL

BOND SET AT: $100.00

PLACE OF SEAL

TATE OF MARYLAND

Vs.

MICHAEL J. SIMDRAN

IE STATE OF MARYLAND, DORCHESTER COUNTY, TO WIT:

O: THE SHERIFF OF DORCHESTER COUNTY:

You are hereby commanded to apprehend #4485
CHAEL J. SIMDRAN Last Known Adress: 13217 New Hampshire Avenue, Silver Spring Maryland

l bring him/her before the Circuit Court for Dorchester County to answer
the charges listed in the charging document attached and for failure to
pear for Criminal Appearance on Nov. 18, 1987 at 9:30 A.M.

WITNESS, the Honorable Chief Judge of the First Judicial Circuit.

te Issued: Nov. 18, 1987

Philip L. Cannon
CLERK

SHERIFF'S RETURN

— Warrant executed (date) 4-6-90

— Writ not executed (State Reason)

— Writ countermanded (State Authority)

W. L. Brambles 250
SHERIFF

-2-

STATE OF MARYLAND	*	CRIMINAL APPEAL
	*	CRIMINAL DOCKET NO. 5468
vs.	*	IN THE CIRCUIT COURT FOR
MICHAEL SIMDRAM	*	DORCHESTER COUNTY, MARYLAND

* *

OPINION & ORDER

This case involves an appeal from the verdict and judgment of the District Court of Maryland, finding Michael Simdram (Defendant) guilty of exceeding the posted speed limit and imposing a fine of Thirty-Five and no/100 Dollars ($35.00). Uniform Traffic Citation No. D-522936, issued May 17, 1987, charges Defendant with the offense of operating a motor vehicle at a speed in excess of the posted speed limit, in violation of Transportation Article, Sec. 21-801.1, on U.S. Route 50 in Dorchester County, on the aforesaid date of issuance.

Defendant appeared before the District Court on August 25, 1987, and pled not guilty to the charge. Trial was held before Honorable John Norton, Judge of the District Court on that date. The court found Defendant guilty and assessed a fine of $35. Defendant promptly noted an appeal from that verdict and judgment, after obtaining a waiver of appeal costs upon his assertion of indigency. The record of the District Court was transmitted to this court and Defendant's appeal filed herein on September 28, 1987.

The clerk of this court promptly, on September 28, 1987, issued a summons commanding Defendant to appear in person before this court on October 21, 1987, pursuant to Md. Rule 4-212 and 4-213, as per the order

-1(A)-

of the Chief Judge of the First Judicial Circuit. The summons was delivered to the Sheriff of Montgomery County (Md.) for personal service upon Defendant at the address given by him to the District Court, which address is located in Montgomery County. This summons was returned unserved and marked "Non est" -- meaning that the Defendant "is not" at the stated address, i.e., he does not reside at the address given.

Defendant failed to appear before the court on the scheduled date of October 21, 1987. Summons was reissued per the order of Honorable Dale Cathell, Judge, commanding Defendant to appear before the court on November 18, 1987. Again, the summons was returned marked "Non est" by the Sheriff of Montgomery County. Defendant did not appear at the November 18 hearing. At that time the presiding judge (Hon. D. William Simpson) apparently made the obvious determination that a summons was not adequate to secure the attendance of the Defendant, and ordered the issuance of a warrant for his arrest. On November 18, 1987, a bench warrant was issued for the arrest of Defendant and setting a bond of One Hundred Dollars ($100). To this date, that warrant remains unexecuted, and the case remains untried on appeal.

On February 16, 1990, Defendant filed, by mail, a pleading herein, captioned "Motion to Dismiss and Petition for Writ of Habeas Corpus."

I. HABEAS CORPUS

As an application for issuance of a writ of habeas corpus, Defendant's pleading is woefully inadequate and patently without merit. As an application for issurance of the writ, Defendant's pleading

(1) does not allege that Defendant is confined or restrained in his liberty; Md. Rule Z42(a)(1);

-1(B)-

(2) does not identify the place where he is so confined or restrained; Id. (a)(2);

(3) does not identify or describe the person by whom he is so confined or restrained (and, therefore, to whom the writ would be issued), Id. (a)(3).

From the pleading itself, it is clear why the foregoing information is omitted: Defendant is not confined or restrained in his liberty, at any place, or by any person. The relief available through habeas corpus proceedings is plainly inapplicable to Defendant's situation. Absolutely no basis for issuance of the writ has been shown. Defendant's application for issuance of a writ of habeas corpus will accordingly be denied.

II. MOTION TO DISMISS

Defendant moves to dismiss the charges against him in this case, on grounds of denial of his right to a speedy trial. In ruling upon such a motion, the first factor to be considered is simply the arithmetical running of the "time clock", unburdened by any value judgments as to why it ran or what resulted from its running. As to trial de novo on Defendant's appeal in this court, the "clock" began running on September 28, 1987. Since that date, twenty-nine (29) months have come and gone. A delay of that duration is clearly of constitutional dimension derived from a presumption of prejudice, requiring the court to conduct an evidentiary hearing to ascertain and weigh the determinative factors established by Barker v. Wingo, 407 U. S. 514 (1972) and its progeny. Accordingly, this matter will be scheduled for hearing thereon.

-1(C)-

Upon the foregoing, it is, this 27th day of March, 1990, by the Circuit Court for Dorchester County,

ORDERED,

1. THAT Defendant's Application for Issuance of a Writ of Habeas Corpus be, and the same hereby is, denied; and

2. THAT the matter of Defendant's Motion to Dismiss be set for evidentiary hearing and legal argument before this court on such date and time as is established by the Clerk of this court, who shall notify the parties hereto of the date so established.

AND IT IS FURTHER ORDERED that the records of this court herein be amended to reflect the correct spealling of the Defendant's last name, to wit: S I M D R A M.

Richard D. Warren

Richard D. Warren, Judge

TRUE COPY :

TEST:

-1(D)-

-4-

Respectfully submitted:
Michael Sindram
Michael Sindram
Petitioner, Pro-Se
13217 New Hampshire Ave.
No.4485
Silver Spring,Md 20914
(202)939-8471

PROOF OF SERVICE

DISTRICT OF COLUMBIA): s.s.:

MICHAEL SINDRAM, after having been duly sworn, deposes and says that pursuant to Rule 29 of this Court, he served the within Motion for Leave to Proceed In Forma Pauperis and Petition for a Writ of Mandamus to the Court of Appeals of Maryland, on counsel for Respondents by enclosing a copy thereof in an envelope, first class postage prepaid, addressed to:

J. Joseph Curran, Jr.,Esq.
200 St. Paul Pl.
Baltimore,Md 21202

and depositing same in the United States mails at Washington,D.C., on October 22,1990.

Michael Sindram

Subscribed and sworn to before me this 22nd day of October,1990.

Notary Public

My Commission expires:
My Commission Expires October 31, 1992